

HOUSE No. 2296

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph F. Wagner

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to increase the homeland security of the commonwealth by merging the Massachusetts Bay Transportation Authority police department into the department of state police.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Joseph F. Wagner	8th Hampden
Kathi-Anne Reinstein	16th Suffolk
Michael F. Rush	10th Suffolk
Anne M. Gobi	5th Worcester
Bradley H. Jones, Jr.	20th Middlesex
Bradford R. Hill	4th Essex
Anthony W. Petruccelli	First Suffolk and Middlesex
Scott P. Brown	Norfolk, Bristol and Middlesex
Allen J. McCarthy	7th Plymouth
Robert F. Fennell	10th Essex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2401 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO INCREASE THE HOMELAND SECURITY OF THE COMMONWEALTH BY
MERGING THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY POLICE
DEPARTMENT INTO THE DEPARTMENT OF STATE POLICE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority
of the same, as follows:*

1 SECTION 1. Section 7 of chapter 22C of the General Laws, as appearing in the 2006 Official
2 Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following
3 sentence:- There shall be within the division of special police services 4 bureaus, which shall be
4 designated as the bureau of facility security, the bureau of motor vehicle enforcement, the bureau of
5 metropolitan district operations, which shall provide services, including but not limited to, school
6 crossing guards and the protection of watershed properties managed by the department of conservation
7 and recreation, and the bureau of transit operations, which shall provide services, including by not limited
8 to, the protection of the rapid transit, bus, commuter boat and rail lines of the Massachusetts Bay
9 Transportation Authority.

10 SECTION 2. Said chapter 22C, as so appearing, is hereby amended by inserting after section 31 the
11 following section:-

12 Section 31A. Massachusetts Bay Transportation Authority; agreement for police service;
13 contents

14 The colonel shall enter into an agreement with the Massachusetts Bay Transportation Authority
15 for police services to be provided by the department to said authority. Said agreement shall fix the legal
16 and fiscal responsibility pertaining to the operation and maintenance of such police service and shall
17 include, but not be limited to, a provision for payments to the commonwealth for the cost of retirement,
18 compensation of injured officers, sick leave, and other employee benefits and for a minimum allowance
19 for departmental supervision. Said agreement shall also require the continuation of all terms and
20 conditions of employment established under the applicable collective bargaining agreement pursuant to
21 the provisions of chapter 151E by the commonwealth and the exclusive bargaining representative of any
22 member of the state police providing such police service including, without limitation, the payment by the

23 authority of any benefit or contribution therefore. Said agreement shall also include a provision whereby
24 all parties must enter a cost sharing agreement whereby 50% of all expenses incurred by the department
25 in providing such police service shall, upon proper requisition, be paid by the authority as such expenses
26 are incurred.

27 Said agreement shall also provide for the appointment under section 10 and assignment of such
28 members of the state police as deemed necessary to meet the requirements of said authority; provided that
29 such appointment and assignment of any such member of the state police by the colonel shall not be
30 considered a violation of any provision of chapter 29; and provided, further, that during such assignment
31 and except as the colonel shall determine that an emergency exists or is threatened, such officers, in the
32 performance of their duties, shall be subject to the operational control of the authority, and the chairman
33 of the authority, but shall at all times be under the administrative and disciplinary control of the colonel.

34 SECTION 3. Chapter 31 of the General Laws, as so appearing, is hereby amended by striking out
35 sections 64 and 65.

36 SECTION 4. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby amended by
37 striking out, in lines 204 to 208, inclusive, the words " "Employee", as applied to persons whose regular
38 compensation is paid by the Massachusetts Bay Transportation Authority, shall mean any police officer of
39 the police department of said Authority, established by chapter six hundred and sixty-four of the acts of
40 nineteen hundred and sixty-eight".

41 SECTION 5. Said section 1 of said chapter 32, as so appearing, is hereby further amended by striking
42 out, in lines 314 and 315 the words "the Massachusetts Bay Transportation Authority police retirement
43 system,"

44 SECTION 6. Said section 1 of said chapter 32, as so appearing, is hereby further amended by striking
45 out, in lines 507 and 508, the words "the Massachusetts Bay Transportation Authority police retirement
46 system,".

47 SECTION 7. Section 2 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 31
48 to 33, inclusive, the words "an employee of the police department of the Massachusetts Bay
49 Transportation Authority shall be included in the Massachusetts Bay Transportation Authority police
50 retirement system,".

51 SECTION 8. Section 3 of said chapter 32, as so appearing, is amended by striking out, in lines 279 and
52 280, the words "any police officer of the Massachusetts Bay Transportation Authority;".

53 SECTION 9. Section 20 of said chapter 32, as so appearing, is hereby amended by striking out
54 subdivision (4 ³/₄).

55 SECTION 10. Paragraph (i) of subdivision (5) of said section 20 of said chapter 32, as so appearing, is
56 hereby amended by striking out the eleventh sentence.

57 SECTION 11. Paragraph (c) of subdivision (1) of section 21 of said chapter 32, as so appearing, is
58 hereby amended by striking out, in line 77, the words "the Massachusetts Bay Transportation Authority,".

59 SECTION 12. Subdivision (2) of said section 21 of said chapter 32, as so appearing is hereby amended
60 by striking out the fifth sentence.

61 SECTION 13. Subdivision (7) of section 22 of said chapter 32, as so appearing is hereby amended by
62 striking out paragraph (f).

63 SECTION 14. Paragraph (a) of subdivision (2) of section 23 of said chapter 32, as so appearing, is
64 hereby amended by striking out, in lines 11 and 12, the words "the treasurer of the Massachusetts Bay
65 Transportation Authority,".

66 SECTION 15. Said paragraph (a) of said subdivision (2) of said section 23 of said chapter 32, as so
67 appearing, is hereby further amended by striking out, in line 20, the words “the Massachusetts Bay
68 Transportation Authority,”.

69 SECTION 16. Subdivision (1) of section 24 of said chapter 32, as so appearing, is hereby amended by
70 striking out, in line 10, the words “the Massachusetts Bay Transportation Authority,”.

71 SECTION 17. Subdivision (4) of section 25 of said chapter 32, as so appearing, is hereby amended by
72 striking out, in lines 96 and 97, the words “the Massachusetts Bay Transportation Authority,”.

73 SECTION 18. Section 28 of said chapter 32, as so appearing, is hereby amended by striking out
74 subdivision (7).

75 SECTION 19. Section 94 of said chapter 32, as so appearing, is hereby amended by striking out, in lines
76 6 and 7, the words: “or of the police force of the Massachusetts Bay Transportation Authority,”.

77 SECTION 20. Section 100 of said chapter 32, as so appearing, is hereby amended by striking out, in lines
78 83 to 85, inclusive, the words “or by the Massachusetts Bay Transportation Authority police retirement
79 board;”.

80 SECTION 21. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby amended by
81 striking out, in lines 10 and 11, the words “the Massachusetts Bay Transportation Authority police”.

82 SECTION 22. Section 73 of chapter 152 of the General Laws, as so appearing, is hereby amended by
83 striking out, in line 9, the words “or any police officer of the Massachusetts Bay Transportation
84 Authority”.

85 SECTION 23. Chapter 664 of the acts of 1968, as amended by chapter 829 of the acts of 1970, is hereby
86 repealed.

87 SECTION 24. Section 19 of chapter 1012 of the acts of 1971 is hereby repealed.

88 SECTION 25. Chapter 412 of the acts of 1991 is hereby amended by adding the following section:-

89 Section 117A. Prior to October 31, 2009, the colonel of the state police shall establish an
90 orientation in-service training program for all persons who shall have been transferred to the department
91 of state police as a uniformed member of said department; provided, however, that such training program
92 shall include, but not be limited to, education of the mission of the said department of state police, the
93 jurisdiction of each bureau and each division of said department, the rules and regulations of said
94 department, the policies and procedures of said department and the equipment owned and used by said
95 department. Any person employed as a police officer in the Massachusetts Bay Transportation Authority
96 police department shall have satisfactorily completed such training program prior to his transfer to the
97 department of state police. Any person who shall not have satisfactorily completed such training program
98 prior to January 31, 2010, shall be prohibited from transferring to said department of state police unless
99 said employee shall have submitted in writing his request for a waiver of such training program and said
100 colonel shall have approved such waiver for said employee.

101 SECTION 26. Section 119 of said chapter 412 is hereby amended by striking out in the first sentence the
102 words “but prior to June thirtieth, nineteen hundred and ninety three” and inserting in place thereof the
103 following words:- January 31, 2010.

104 SECTION 27. Said section 119 of said chapter 412 is hereby further amended by inserting after the
105 words “division of law enforcement of the registry of motor vehicles” the following words:- or an
106 employee of the Massachusetts Bay Transportation Authority police department.

107 SECTION 28. Section 120 of said chapter 412 is hereby amended by inserting after the words “division
108 of law enforcement of the registry of motor vehicles” the following words:- or the Massachusetts Bay
109 Transportation Authority police department.

110 SECTION 29. Section 121 of said chapter 412 is hereby amended by inserting after the words “division
111 of law enforcement of the registry of motor vehicles” the following words:- or the Massachusetts Bay
112 Transportation Authority police department.

113 SECTION 30. Said section 121 of said chapter 412 is hereby further amended by striking out the words
114 “after July fifth, nineteen hundred and ninety-two and prior to October first, nineteen hundred and ninety-
115 two” and inserting in place thereof the following words:- after August 1, 2009 and prior to October 31,
116 2009.

117 SECTION 31. Section 135 of said chapter 412 is hereby amended by inserting after the words “by the
118 chief of the capitol police” the following words:- , by the chief of the Massachusetts Bay Transportation
119 Authority police department.

120 SECTION 32. Chapter 290 of the acts of 1993 is hereby repealed.

121 SECTION 33. The Massachusetts Bay Transportation Authority police department shall be merged into
122 the department of state police. Such merger shall begin on August 1, 2009, with a 6-month transition
123 period, so that after such transition period the Massachusetts Bay Transportation Authority police
124 department and the department of state police shall be deemed consolidated and merged, and the
125 consolidated police force shall be called the department of state police. The department of state police, so
126 consolidated, shall be deemed to be the police force of the commonwealth and it shall be the force with
127 jurisdictional authority over state property.

128 SECTION 34. The Massachusetts Bay Transportation Authority shall deposit, with the public employee
129 retirement system, funds equal to the contributions for retirement made by the authority and the members,
130 who are present or retired members of the pension funds commonly known either as the MBTA Police
131 Association Retirement Fund or the MBTA Retirement Fund. The transfer of said funds shall be
132 deposited upon agreement of terms between the authority and the commissioner of public employee
133 retirement administration. Said agreement shall be entered into no later than October 31, 2009.

134 SECTION 35. All present members of the Massachusetts Bay Transportation Authority police
135 department shall be entered into the public employee retirement system and the commissioner of public
136 employee retirement administration shall credit those members with the creditable service years with the
137 Massachusetts Bay Transportation Authority police department. Members currently retired from the
138 Massachusetts Bay Transportation Authority police department and drawing their pension either partially
139 or in whole from either the MBTA Police Association Retirement Fund or from the MBTA Retirement
140 Fund shall remain members of the MBTA Police Association Retirement Fund or the MBTA Retirement
141 Fund and shall not have any creditable service transferred to the department of state police.

142 SECTION 36. Each member of the Massachusetts Bay Transportation Authority police department shall
143 take all creditable service to the department of state police. For the purpose of retirement, service shall be
144 determined by all creditable service based on contributions to a retirement fund within the state retirement
145 system and the years of creditable service with the Massachusetts Bay Transportation Authority police
146 department. The commissioner of public employee retirement administration shall allow those members
147 with prior creditable service to purchase back those creditable years, not within the MBTA police
148 retirement funds, in the normal and customary manner afforded other public employees.

149 SECTION 37. Any police officer of the Massachusetts Bay Transportation Authority police department
150 not wishing to transfer to the department of state police by October 31, 2009, shall be placed at the top of
151 the eligibility list of the civil service list for the region of his residence. When said officer is appointed to
152 any city or town from said list he shall be credited with all creditable service for the purpose of seniority
153 and retirement in the public employees retirement system.

Pursuant to this section, any police officer of the Massachusetts Bay Transportation Authority police department wishing to exercise his civil service rights or privileges shall retain employment with the authority until such reasonable time to effect either appointment or lateral transfer to another police department, but no later than October 31, 2009.

SECTION 38. A committee shall be appointed by the colonel of state police and the chief of the Massachusetts Bay Transportation Authority police department to study the titles and rank structure of the Massachusetts Bay Transportation Authority police department to determine where the police officers of the authority should be placed in the rank structure of the consolidated department of state police. The committee shall report its findings and recommendations to said colonel on or before October 31, 2009. There shall be no loss of pay, or other accrued benefit, for any member, noncommissioned, commissioned, or staff officer of the Massachusetts Bay Transportation Authority police department who held his rank prior to the enactment of this act.

SECTION 39. The colonel of state police is hereby authorized and directed to enter into a memorandum of understanding with the authority to define the terms and conditions for use by the department of property owned or operated by the authority; provided, however, that the transfer shall be in compliance with federal law and no such property shall be transferred under the provisions of the memorandum of understanding without legislative approval; and provided, further, that said memorandum of understanding be executed on or before October 31, 2009.

SECTION 40. The secretary of public safety, in conjunction with the personnel administrator, shall commence an audit of the personnel file of each member of the Massachusetts Bay Transportation Authority police department on the effective date of this act, to ensure that each file shall contain the accurate name, date of birth, current mailing address, and the length of service of each member. Upon the request of the secretary, the state treasurer shall be directed to offer any assistance as the secretary shall deem reasonable to fulfill the requirements of this section. Said audit shall be completed on or before October 31, 2009.

SECTION 41. The department of state police, for the purposes of collective bargaining, shall only recognize that organization certified by the Massachusetts Labor Relations Commission to represent the members and non-commissioned officers of the department. Members of the Massachusetts Bay Transportation Authority police department transferring to the department of state police shall abide by the collective bargaining agreements between the department and said organization.

SECTION 42. Except as authorized in section 37, and notwithstanding the provisions of any general or special law or rule to the contrary, the civil service rights and benefits of any person serving in a position or employed as a police officer in the Massachusetts Bay Transportation Authority accorded pursuant to the provisions of chapter 31 shall hereby be abolished as of October 31, 2009. Nothing in this act shall be deemed to prohibit the exclusive bargaining representatives of any such persons from negotiating with the commonwealth in accordance with the provisions of chapter 150E to minimize the effects of the abolition of such rights and benefits.

SECTION 43. The commissioner of the public employee retirement administration shall contract with an independent actuary to analyze, study and value the cost of retirement benefit changes made pursuant to the provisions of this act; provided, however, that said commissioner shall make available to such actuary any information as such actuary deems necessary to fully analyze such costs; provided, further that said commissioner shall file the report of such actuary with the joint committee on public service and the house and senate committees on ways and means on or before January 31, 2010.

197 SECTION 44. On the effective date of this act, ownership, possession and control of all equipment,
198 papers, plans, books, records and documents which are in the possession of the Massachusetts Bay
199 Transportation Authority police department or any bureau, unit, officer, or employee thereof consolidated
200 in accordance with the provisions of this act shall pass to and be vested in the department of state police
201 without consideration or further evidence of transfer and shall thereafter be in the ownership, possession
202 and control of the department and in compliance with federal law.

203 SECTION 45. All petitions, hearings, appeals, and other proceedings duly brought before, and all
204 prosecutions and legal and other proceedings duly begun by the Massachusetts Bay Transportation
205 Authority police department or any bureau, unit, officer or employee thereof consolidated pursuant to the
206 provisions of this act shall continue unabated and remain in force notwithstanding the passage of this act,
207 and shall thereafter be completed by such division, bureau, unit, officer or employee.

208 SECTION 46. Any duly existing contract, lease, or obligation of the Massachusetts Bay Transportation
209 Authority police department or any bureau, unit, officer or employee thereof which shall be consolidated
210 pursuant to the provisions of this act which are in force immediately prior to the effective date of this act
211 shall be deemed to be the obligation of the department of state police. No existing right or remedy under
212 any such contract, lease or obligation shall be lost, impaired or affected by the provisions of this act.

213 SECTION 47. Wherever the name of the Massachusetts Bay Transportation Authority police department
214 or any bureau, unit, officer or employee thereof which shall be consolidated pursuant to the provisions of
215 this act appears in any general or special law, rule or regulation, such name shall be deemed to mean and
216 shall be construed as referring to the department of state police.

217 SECTION 48. Any function, right, power, duty or other statutory provision which, prior to the effective
218 date of this act, was assigned to, exercised by or performed by the Massachusetts Bay Transportation
219 Authority police department or any bureau, unit, officer or employee thereof which shall be consolidated
220 pursuant to the provisions of this act to the department of state police shall be deemed to be assigned to,
221 exercised by or performed by the said department of state police.

222 SECTION 49. Notwithstanding the provisions of any general or special law, rule or regulation to the
223 contrary a police officer of a city or town shall have concurrent powers and duties with police officers of
224 the department of state police on all property which is located within the geographical boundaries of the
225 city or town by which said police officer is employed where said property is under the care and control of
226 the Massachusetts Bay Transportation Authority.

227 SECTION 50. Except where amended by the provisions of this act all other provisions of chapter 412 of
228 the acts of 1991 shall apply to the consolidated department of state police.